THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.10720 of 2005

Dated: 20-07-2007

Between:

J.Bujji and others.

..... PETITIONERS

AND

The District Collector, Chittoor, and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.10720 of 2005

ORDER:

As many as thirty residents of Rajeev Gandhi Colony, H/o Daminedu, Tiruchanur Panchayat & Revenue Village, Tirupati Rural Mandal, Chittoor District, are the petitioners herein. They seek a writ of Mandamus declaring the action of the respondents in trying to dispossess them from the small extents of land comprised in survey Nos.100 and 101 of said Village as illegal and arbitrary and for a consequential direction to the respondents to issue pattas to them.

It is the case of the petitioners that all of them belong to Schedule Caste/Backward Class/Economically Weaker Sections. They allegedly occupied an extent of Ac.0.02 each in survey Nos.100 and 101. They allege that they approached the respondents requesting for providing house site pattas on number of occasions and also on 14.03.2004 and 18.09.2004, in vain. They, however, allege that they have been paying necessary taxes to the Gram Panchayat, Tiruchanur. They filed this writ petition alleging that third respondent along with other revenue officials visited the colony and threatened to dispossess them.

This Court, while ordering notice before admission on 29.04.2005, passed interim orders in W.P.M.P.No.13797 of 2005 to the effect that the petitioners shall not be dispossessed otherwise then by due process of law, if they are in possession of the land as alleged. Subsequently, the matter was admitted on 08.06.2005. The respondents now moved this Court by filing W.V.M.P.No.533 of 2007. Said application is filed on 27.02.2007, but no reply-affidavit is filed. The learned counsel for the petitioners, who is absent yesterday, appeared today when the matter is appearing under the caption "FOR DISMISSAL" and requests time for filing reply-affidavit. The request is refused and the matter is heard finally.

In the counter-affidavit filed by third respondent, the averments are as follows. The land in survey No.100 (Acs.5.64) is patta land belonging to Sri V.Gopal. Similarly the land in survey No.101/1 (Ac.0.53) is patta land standing in the name of B.P.Venkateswarlu and however, the land in survey No.101/2 (Acs.3.59) is classified as Vagu Poramboke. Though the petitioners are not in possession and were never in possession of the land in said survey numbers, they filed this writ petition making false allegations, obtained interim orders and then raised structures in survey No.101/2. The allegation that they are paying taxes to the Gram Panchayat is denied alleging that the tax receipts produced by them are not genuine, which were never issued by the

Gram Panchayat.

A perusal of the averments in the counter-affidavit, which were not denied by the petitioners by filing reply-affidavit, show that the writ petition is filed on a foundation which is not factually correct. Further as alleged the petitioners occupied the land in survey No.101/2 after obtaining interim orders and raised structures, in which event they are not entitled for any relief. However, in paragraph 5 of the counter-affidavit the following averment is made.

> I submit that as per the entries in the Revenue records the land in Survey No.101/2 is classified as Vagu Poramboke and this water course passes through Survey Nos.101/2, 106, 107, 109 etc. and joins at Yerrammareddipalem tank of Renigunta Mandal. The illegal occupation made by the petitioners is in the Vagu Poramboke and it is highly objectionable and no house site pattas could be issued in the Vague Poramboke lands. The Board standing order 15(4)(ii)(a) prohibits assignment of the Vague Poramboke lands, tank beds and water course porambokes and therefore the Writ Petition is liable to be dismissed.

There is an admission in the above paragraph that the petitioners are in illegal occupation of the land classified as Vagu Poramboke. If that be so, third respondent has to necessarily evict them by following the Andhra Pradesh Land Encroachment Act, 1905. As the petitioners approached this Court without disclosing the correct facts and tried to withheld the facts, they are not entitled for the Mandamus prayed for.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

20th July, 2007
ghn